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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/502,411	07/23/2004	Uwe Skultety-Betz	3040	5780
7590 09/08/2006			EXAMINER	
Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743			RATCLIFFE, LUKE D	
			ART UNIT	PAPER NUMBER
			3662	

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/502,411	<b>Applicant(s)</b> SKULTETY-BETZ ET AL.	
	<b>Examiner</b> Luke D. Ratcliffe	<b>Art Unit</b> 3662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The applicant claims "A distance measuring device, in particular a handheld laser distance measuring device". This language leaves it unclear if the applicant is claiming a distance measuring device or a handheld laser distance measuring device.

Appropriate correction is required.

Claims 2-10 are rejected because they depend upon claim 1 and therefore contain all the limitations of the parent claim.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claim 1, 2, 6, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Dunne (5949529).**

Referring to **claim 1**, Dunne shows a handheld laser distance measuring device with a position sensor (column 6 lines 58-column 7 line 3), and the position sensor is connected with a signal transducer that emits a perceptible signal which depends on the special orientation (column 6 lines 58-column 7 line 3).

Referring to **claim 2**, Dunne shows a signal transducer that is an optical signal transducer, an acoustic signal transducer, or a tactile signal transducer (column 6 lines 58-column 7 line 3).

Referring to **claim 6**, Dunne shows an acoustic signal wherein the volume, pitch, frequency of recurrence and/or duration of which are a function of the special orientation (column 6 lines 20-35).

Referring to **claim 8**, Dunne shows a position sensor that is a tilt sensor (column 6 lines 58-column 7 line 3).

Referring to **claim 9**, Dunne shows that to trigger the signal transducer as a function of the spatial orientation, a control unit is provided which is connected with the position sensor on the input side and with the signal transducer on the output side (column 6 lines 58-column 7 line 3).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dunne (5949529).**

Referring to claim 7, It would be obvious to use a tactile signal transducer because this is the other obvious sense to use if the senses of sight and hearing are occupied or if the users hearing and sight is impaired. Dunne teaches using an audible signal that varies in intensity and/or frequency or recurrence, which is a function of special orientation, and the mere introduction to this stimulus to another sense is obvious.

**Claims 3-5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunne (5949529) in view of Heironimus (6037874).**

Referring to **claims 3 and 4**, Dunne shows a handheld laser distance measuring device with a position sensor (column 6 lines 58-column 7 line 3), and the position sensor is connected with a signal transducer that emits a perceptible signal which depends on the special orientation (column 6 lines 58-column 7 line 3). Dunne shows a signal transducer that is an optical signal transducer, an acoustic signal transducer, or a tactile signal transducer (column 6 lines 58-column 7 line 3). However Dunne dose not shows using an optical signal transducer. Dunne also teaches the signal transducer to be altered in frequency being equivilant in both an audible and visual signal as dictated by the position sensor (column 6 lines 58-column 7 line 3).

Heironimus however does show using an optical signal transducer (column 7 line 65-column 8 line 23). Heironimus also teaches changing the frequency of the blinking light with respect to a position sensor. It is inherent that the light will be in the visible

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wavelength range in order for the device to function. It would have been obvious to modify Dunne to use the optical signal transducer so the device can fit the needs of the hard of hearing.

Referring to **claim 5**, Dunne shows an optical signal transducer that serves to measure distance (column 3 line 6-15).

Referring to **claim 10**, using a comparator and threshold is well known for triggering any signal in a distance measuring device and adds no new or unexpected results.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luke D. Ratcliffe whose telephone number is 571-272-3110. The examiner can normally be reached on 10:00-5:00 M-Sun.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on 571-272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LDR

LDR

  
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